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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,237	12/19/2001	Andrew Paul Chapple	C7592(V)	7388

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UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER, NJ 07020

EXAMINER

KUMAR, PREETI

ART UNIT PAPER NUMBER

1751

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/025,237	Applicant(s) CHAPPLE ET AL.	
	Examiner Preeti Kumar	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-16 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

**Non-Final Rejection after RCE**

***Response to Amendment***

1. Claims 1-2 and 4-16 are pending and claim 1 is amended.
2. Applicant's arguments, filed June 16, 2004, with respect to claims 1-16 have been fully considered and are persuasive. The rejection of claims 1-16 under 35 U.S.C. 102(b) as being anticipated by Hauwermeiren et al. (WO 98/06811) is withdrawn in light of applicant's arguments.

***New Grounds of Rejection***

***Claim Objections***

3. Claim 1 is objected to because of the following informalities: The amendment to the claim is not grammatically correct. Examiner suggests replacing "for" with "of". Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1-2 and 4-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauwermeiren et al. (WO 98/06811).

Regarding claims 1,2,4, 7-10, and 13, Hauwermeiren et al. teach a granular and powder detergent and cleaning product comprising one or more antibodies granulated with salts e.g. sodium sulfate and calcium sulfate. Please see page 7, 4<sup>th</sup> paragraph and example 7 formulation IV where Hauwermeiren et al. illustrate a detergent formulation comprising dry additives including antibody, enzymes, bleaching agent and a balance of sodium sulfate which encompasses greater than 80% of the formulation consists of an alkali metal salt. See page 57-58, example 7, formulation IV.

Regarding claims 11-12, 15-16, Hauwermeiren et al. that the cleaning process is carried out at 5 degree C to 95 degree C. The pH of the treatment is preferable from 7 to 11. See page 47, paragraph 6.

Regarding the claimed chemical equilibrium constants, the prior art, Hauwermeiren et al., are silent as to the chemical equilibrium constants for its antigen and do not explicitly teach the limitations of Kd as recited by the instant claims. However, it is reasonable to presume that said limitations are inherent to the invention because the presumption is supported by the use of similar components (i.e. antibodies and alkali metal salts) in similar proportions to produce a granular composition. The burden is upon the applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594.

Hauwermeiren et al. do not specifically teach an antibody granule granulated with an alkali metal salt as recited by the instant claims.

However, it would have been obvious, to one of ordinary skill in the art, at the time the invention was made, to formulate an antibody granule granulated with an alkali metal salt as recited by the instant claims, with a reasonable expectation of success, because the teachings of Hauwermeiren et al. suggest a granular composition comprising an antibody and more than 80% alkali metal salt as recited by the instant claims.

### ***Response to Arguments***

7. In response to applicant's argument on page 5, line 9, that Hauwermeiren et al. fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., antibody granule wherein the antibody is co-granulated with an alkali metal salt) is not recited in the rejected claim(s) and support, basis, or definition for co-granulated is not provided in the specification.

Since the specification does not define granulated to mean co-granulated, Examiner has used the definition of granulated as define by Mariam Webster's Online Dictionary is: to form or crystallize into grains or granules. Furthermore a patent and non-patent literature search of co-granulated retrieved no results to define the term and examiner is presuming that it is a made up word.

8. In response to applicant's arguments that Hauwermeiren et al. lists dry additives to mean that the ingredients are separate is not found to be persuasive because

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formulation 4 clearly states that there is no balance of moisture, thus the detergent composition has to be granular by nature of the components recited.

**Conclusion**


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 571-272-1320. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Preeti Kumar  
Examiner  
Art Unit 1751

PK

  
MARGARET EINSMANN  
PRIMARY EXAMINER  
GROUP 1100